

THE DAILY HERALD
Salt Lake City, Utah.

FRIDAY, OCTOBER 2, 1885

LOCAL BRIEFS.

Dwyer has the season for November. McCORMICK & Co., yesterday, received two bars Stormont silver, value \$3,500. A man named Cooley was arrested yesterday for being drunk. He donated \$5.

CHARLES JOHNSON'S Valley Tan Remedies loom up in the Rag Baby's drug store. JOSEPH LEE, a vagrant, was given a temporary residence under the care of city officials yesterday.

THE TEMPERATURE yesterday, as reported by the Signal Service office: Maximum, 74; minimum, 53.

THE RAG BABY, Sport, Venus, the Three Little Maids from School, appear at the Theatre again this evening for the last time.

THE OFFICE of the Women's Exponent has been removed to 25 E. South Temple Street, two doors east of the Deseret N. W. office.

THE FUNERAL services over the remains of Edward Blair will take place to day at 1 p. m., at the First Ward meeting house.

THE CONTRIBUTOR for August has been 14 on our table. O. E. Whitney, B. H. Roberts and Mrs. Augusta J. Crocheron are among the contributors to the number.

SIXTEEN DEATHS from diphtheria last month—nearly double that of the month previous. Will this month show a similar increase? Very probably.

NO MAIL from the east last evening. It is expected that it will be brought down on the D. & R. G. at 10:30 this morning. Dwyer will have the October Century at noon to day.

THE NATIONALS and Clippers meet this afternoon on the Eighth Ward Square in a baseball contest. As both teams have acquitted themselves creditably heretofore, a good game may be expected.

THE PEOPLE'S Forwarding Company are doing a rushing business in the way of supplying cattle, horses and sheep men and others with salt. Their establishment is a depot for grain and flour, and their prices will be found quoted in THE HERALD.

AN EVENING paper announced last night that Clem Hensley was a happy father. Clem says he dislikes misstatements, but is only sorry that the report is not true. Governor Murray must have heard of it, for he was seen to congratulate Clem last night.

FOUR MORE cases of diphtheria in the twenty-four hours ending last evening at 7 o'clock—one more in the family of Mr. Tucker, in the rear of the Seventies Hall; one case in the family of Mr. George Larkin, in the Seventh Ward, and two in the family of Mrs. Matilda Ford, 300 E. Seventh South Street.

WEST has received a received a dispatch from the Boise City, Idaho, baseball team, offering to play a series of three games in Salt Lake for a guarantee of \$250. The proposition will not be entertained. The club is said to be much inferior to the Buttes. No word has yet been received from either the Ogden or Battle Ball tossers.

A LARGE number of the friends of Mr. and Mrs. M. E. Cummings assembled at their residence last evening to pay their last respects to their little child, Clyde. Bishop Whitney conducted the services, and made some feeling remarks, and Lorenzo D. Young and Fernand Little also spoke. A long line of carriages followed the remains to the grave.

THE NEWS of last evening was in error when it stated that Aurelius Miner had pleaded "not guilty" in the District Court yesterday, and that two days were allowed in which to withdraw the plea. Mr. Miner did not plead at all. He simply took the time allowed by the statutes—two days in which to plead. He will plead on Saturday.

Dixon-Hemenway.

Mr. Charles W. Hemenway, who has been somewhat conspicuous in northern Utah as editor of the Ogden Herald, was married on Tuesday last to Miss Ireta Dixon, at the residence of the bride's parents in Payson, Utah. The ceremony was performed by Bishop J. S. Tanner. Only the immediate relatives of the family witnessed the ceremony, but they were sufficiently numerous to fill the whole house to its utmost capacity. The bride wore a plain but elegant dress of white satin trimmed with lace, and was the recipient of many valuable presents. Among the other gifts a handsome silver tea set came by express from the compliments of Justice D. W. Powers.

The happy couple went to Ogden yesterday, and will make the Junction City their future home. We congratulate.

PERSONAL.

FRANK MAY, who for nearly two weeks has been prostrated with rheumatism, was able to be about yesterday. W. J. CROUCH returned yesterday, from Park City, where he acted as prompter for the A. O. U. W. grand ball.

FRED McOLLY, business manager for Aldrich & Sanger's "In His Power" Co., is among the arrivals at the Valley House.

"The" Place of Beverages.

The Occidental bar, where the choicest of wines, liquors and beers are manipulated in the most tempting fashion by the experienced proprietors. The family trade and private parties supplied. Best of California and imported wines and transient cigars always in stock. ALEX & MURPHY.

G. F. Colmer's Flour Bulletin. Choice XXXX Flour, in 50 lb. lots, \$1.00.

BRASS BEDSTEPS, at Barratt Bros.

NOTE BOOKS, lead pencils and ink at C. H. PARSONS & Co., by the post-office.

ALL who have telephones please ring No. 233, and those who pass Market Row call at Hill & Haslam's and get your Groceries, Produce, etc.

ROSSITER GUILTY.

A Verdict Found on "Common Repute."

TO BE SENTENCED ON THE 10TH.

Those Few Fatal Measles did the Business, According to Judge Zane.

The proceedings in the Rossiter case were recommenced yesterday morning, in the presence of a large number of spectators. The first witness called was Alafes Young, who testified as follows:

I know Mr. Rossiter; I know Myra Young; she is my sister; she has lived for the past two or three years in the north extension of the Bee Hive; I have visited her frequently; I think I know she is married; she is reputed to be; I have found Mr. Rossiter there at various times. I have seen him there at noon and at meal times. I should think Mr. Rossiter presided at the head of the table as the head of the family. The child is my sister's, and is reputed to be his; it is about 3 years old; I last saw my sister six or seven months ago. She bears the name of Rossiter in the family, and so does her child.

Cross examined—I remember the wedding of Mrs. J. D. Spencer. I don't remember seeing the child there. My impression is that the child is between 3 and 4 years old.

SPENCER CLAWSON—I know Mr. Rossiter and Myra Young; I am connected with her by marriage; she has lived of late years back of the Bee Hive. I have visited in her apartment, and seen Mr. Rossiter there; each time it was at the invitation of Mrs. Rossiter, at a dinner party; there was no host at all. Mr. Rossiter came in late; Myra bears the name of Rossiter in the family; she has been at parties at my house; he did not accompany her; never heard him speak of her as his wife; she passes as his wife in our family; they are reported in the family to occupy the house a portion of the time as man and wife.

Cross examined—Mr. Rossiter was collector and private secretary of President Young; he has since been agent of the heirs of the estate and the executor; his business required him to visit the various houses; Myra's among the rest.

JOHN D. SPENCER—I don't know where Mrs. Lucy Young is; I saw her yesterday; she was not at home this morning when the officers went to the house.

MR. VARIAN called Marshall Ireland, whispered to him, and then announced that he had finished.

MR. HARKNESS arose to move that all the answers of all the witnesses who had testified as to the reported marriage and the reported living together be stricken out and taken from the jury. He could find no authorities, he said, which carried the report to the extent of establishing the fact. It might be just as proper to ask whether a man was reported to have committed a grand larceny. He apprehended, he said, that the court would charge the jury in behalf of the defense that Mr. Rossiter might positively announce Myra Young as his wife, and the child as his own to the world, and that it would be his duty to support them, to visit them, and to educate the child. There would be a wide distinction, however, between such visits, and the regular living together, and nothing he considered had been introduced to show that Mr. Rossiter had ever remained all night in the house, had ever been seen there in the morning, and never in the evening, except at parties. There could be nothing criminal in the visits he had been proved to have made and an inference could not be drawn from mere reports that he had paid other visits at other times.

MR. KIRKPATRICK followed, quoting several authorities in support of the position of Mr. Harkness; he cited the danger of allowing common repute, rumor or hearsay to stand in the place of positive evidence, and claimed that had there been any dwelling together or holding out—two essentials in the commission of this offense, according to the definition of the court itself—they could have been proved by numerous witnesses.

MR. VARIAN followed, briefly arguing that the testimony should be admitted to show how the association of the defendant and Myra Young was regarded by members of the family.

The court made a sort of double-edged decision, both sustaining and overruling the motion; he said the testimony should be admitted as competent for the purpose of showing the relationship, but it was incompetent to show a dwelling together.

The prosecution rested their case here, and the defense announced that they had no testimony to offer.

MR. VARIAN then opened the arguments, by informing the jury that the offense of cohabitation was proved whenever it was shown that the defendant had lived with more than one woman as his wives, during the time stated in the indictment, and it did not matter whether that time was one year, one month, or one day. There was no doubt as to the general reputation of both women named as being the wives of the defendant. He thought it very improbable that, considering the fact that Mr. Rossiter had lived with these women before the Edmunds law was passed, that he should separate himself from one of them at the time of the passage of that bill. If defendant had ceased to live with Myra Young from the time of the passage of the Edmunds law that, could easily have been proven, or rather explained, and it is quite possible that Myra Young herself would be able to throw some light on the subject.

Defense objected to the insinuation that defendant should be held responsible for the absence of Myra Young, and the court held that the absence of the witness might be referred to only to explain why the prosecution had not produced them.

Mr. Varian then continued his argument for a short time, and Court adjourned until 2 p. m.

Promptly at 2 p. m., Mr. Varian continued his argument of the morning, advancing the proposition that a prima facie case had been made out.

MR. KIRKPATRICK, for the defense, then claimed that the argument of the prosecution was simply an ingenious

plan to shift the burden of proof upon the defendant. The defense has simply shown what we do not deny. There is not a single fact in the case that could justify a verdict of guilty. Visits by the defendant were shown, but it was the duty of the polygamous husband to visit his families, to look after and educate his children. Visits of this kind could not constitute a dwelling together, and nothing had been shown to occur that was perfectly legal and justifiable.

JUDGE HARKNESS followed in a similar vein. The prosecution had, he said, introduced evidence tending to show the marriage of defendant to Myra Young. This was not denied, neither was it denied that the child of the said Myra was the son of Mr. Rossiter. It was his, and bore his name. That child was born prior to the passage of the Edmunds act. It is his solemn duty to support that child. The law forbade a dwelling together, but it did not prohibit visiting or providing for the family. The question at issue, then, was whether or not there had been a dwelling together during the time mentioned in the indictment. There was not a particle of evidence showing a dwelling together, and the defendant had a perfect right to visit the house.

MR. VARIAN then began his closing argument to the jury, and said that to prove unlawful cohabitation it was not necessary to prove sexual commerce. That was not a necessary element. They lived together as man and wife prior to the passage of the Edmunds act and it was just as reasonable to suppose that a leopard would change his spots as to suppose that the passage of any such law would make any difference to them or their modes of life. There had been a public act in introducing that those relations had been discontinued, and in the absence of any such act, it was but reasonable to infer that they were still continuing those relations. Such a man knew nothing and cared nothing for the Edmunds law. The prosecution has introduced evidence to prove that defendant had visited the house and eaten meals there; he and Myra Young had extended the hospitality of their house to Mr. Alafes Young, and he had testified that they had occupied the positions at the table usually occupied by the heads of the family. If defendant had desired to separate from his second wife he could easily have done so, and made the fact known to the world. This course would not be absolutely necessary, but society would require of a man placed in such a position to be very careful as to his conduct with such a woman. The visits of defendant were such as to carry the inference that the association complained of had never been broken off, but that it had been continued. If it had not been continued, the defendant was in a position to prove it, and without an explanation it was evident there had only been an attempt to conceal the association. This conduct had been in the relation of husband and wife, to the scandal of society. If there was any one who should be interested in the defendant, it was Myra Young, who was absent.

At the conclusion of Mr. Varian's argument the judge briefly charged the jury to the effect that if they believed, beyond a reasonable doubt, that the defendant lived with both wives, in the habit and repute of marriage, they should find him guilty. It was not necessary to believe that there had been sexual intercourse, that they had occupied the same bed, or that he had remained over night. If they believed the defendant cohabited with Eliza C. Rossiter, he would have the right to visit Myra Young, but not as his wife, or to remain under circumstances that would indicate that she was his wife. He could not take meals or associate so as to show to the world that the relationship of husband and wife existed. The jury were judges of the credibility of witnesses, and should consider the evidence as a whole, and not in parts, and draw such conclusions as the evidence warranted.

The jury tumbled out of their box at 3:25 p. m., and filed away in charge of the bailiffs.

The case of the United States vs. Amelius Miner was then called: Defendant was arraigned, the indictment read to him, and he took advantage of the statute, which allows two days in which to plead.

The witnesses in the case were excused.

The case of the United States vs. Edward Brain. A number of witnesses were called, Mary Ann Johnson failed to answer, and an attachment was ordered issued for her.

After the jury in the Rossiter case had been about absent twenty-six minutes, Deputy Hard, tipped down the alleyway, and stood smiling in front of the judge. He announced that the jurors had agreed and the judge ordered them to be shown in. They came, took their seats, and in answer to the clerk's queries announced that the verdict was "guilty as charged in the indictment."

The jurors were discharged, except those of the regular panel.

Mr. Varian asked that a time be set for passing judgment, and on motion of Judge Harkness, Saturday, October 10th, was the day decided on.

Mr. Rossiter then left the court, and the empanelling of a jury in the Brain case was proceeded with. The following names were called, and all responded, save Messrs. Armstrong, Skewes and Scovell.

47 T. C. Armstrong,
40 R. C. McKwan,
181 William Skewes,
122 B. F. Fitzgerald,
114 John G. Labrum,
108 Joshua H. Midgley,
70 Oscar Wilkins,
62 Orson D. Romney,
62 James W. Burbage,
179 L. E. Scovell,
54 Joseph Durbridge,
64 Oscar H. Hardy,
44 George F. Price,
46 George Craner,
170 Leroy Holt.

Mr. McKwan believed it right for a man to have more than one living and undivorced wife, under certain circumstances, and his eleven companions also held similar ideas, or declined to state their views on the subject. All were excused and the following were then called:

151 W. C. Lyne,
90 B. C. Wells,
100 Francis Platt,
179 L. A. Scovell,
42 James H. Poulton,
200 John N. Pike,
20 G. H. Snelgrove,
28 R. G. Lambert,
172 B. S. Young,
125 Adolph Anderson,
100 B. H. Johnson,
188 E. H. Rodeback.

Mr. Young was the only one who did not respond.

W. C. Lyne knew nothing of the case, Messrs. Wells, Platt, Poulton, Johnson and Rodeback were Mormons and were

excused. Mr. Scovell knew nothing of the case, but was excused on the plea of urgent business.

Mr. Pike did not admit the right of the Prosecuting Attorney to question him as to his religious belief, and refused to answer.

MR. VARIAN—Will you answer the question? Do you believe it right for a man to have more than one living and undivorced wife at the same time?

MR. PIKE—I deny your right to ask such a question.

THE COURT—Answer the question, yes or no. He has a right to ask it.

MR. PIKE—I decline to state my belief.

MR. VARIAN—You will be excused.

MR. PIKE—Will I be excused for the term?

THE COURT—Only until next, Saturday.

MR. PIKE—(leaving the box)—I don't see that I'll make any better juror Saturday than I do now.

THE COURT—What is that, sir?

MR. PIKE repeated his words.

THE COURT—(severely)—You have said enough, sir. Sit down, or you may be punished severely.

MR. SHELBORE declined to state his belief.

MR. LAMBERT was excused on account of being connected with the editorial department of the News.

MR. ANDERSON knew nothing of the case, and was retained—leaving two in the box.

Court adjourned until to-day at 10 a. m.

The verdict created considerable surprise on the streets, as the impression had gained ground that Judge Zane's decision stating that "repute" would not be competent to establish the fact of dwelling together, had materially upset the case (severely). Judge Zane's charge to the jury, however, had stiffened its back again, and added to the testimony of Alafes Young, had been sufficient in the minds of the jury to warrant a verdict.

THE USUAL THING.

Another Misstatement by the Mendacious Scribblers.

PAYSON, Utah, September 30, 1885.

To the Editor of THE HERALD.

On the 18th instant there appeared in the columns of the Salt Lake Tribune what purported to be an interview, in which I was represented as expressing certain opinions in regard to the action of Bishop Sharp in pleading guilty to the charge of unlawful cohabitation, before the Third District Court. This alleged interview in the Tribune has done me great injustice in that it was utterly untrue and incorrect. A reporter of that paper did solicit my views on the subject, but his report was entirely inaccurate and wrong.

Had I not been absent from home, and hence not known of this mischievous and false interview, until now, I would have contradicted it before.

WM. DOUGLASS.

The Stockmen's Convention.

The convention of the Utah Cattle and Horse Growers' Association met in the Legislative Chamber of the City Hall yesterday afternoon at 2 o'clock, and was called to order by President Faust. Owing to the non-arrival of a number of delegates who will reach the city to-day, it was deemed advisable to transact only formal business and adjourn until this morning. The committee on constitution and by-laws asked and was granted five minutes to report, and the names John S. Houtz and James Andrus were added to the committee.

The convention adjourned till this morning at 10 o'clock.

Mr. J. S. Tebbets, agent of the Union Pacific informed President Faust that he was authorized to give free transportation to regularly authenticated delegates to the national convention, which will meet in St. Louis on November 23d.

Card of Thanks.

To the Editor of THE HERALD:

Permit me through your columns to express the heartfelt feelings of myself and family to Mrs. H. P. Kimball and her daughter, Mrs. Frank Jennings, for their kind sympathy and assistance at the funeral of my youngest son.

W. B. WRIGHT.

October 1st, 1885.

"Consumption Cure"

would be a truthful name to give to Dr. Pierce's "Golden Medical Discovery," the most efficacious medicine yet discovered for arresting the early development of pulmonary disease. But "consumption cure" would not sufficiently indicate the scope of its influence and usefulness. In all the many diseases which spring from a derangement of the liver and blood the "Discovery" is a safe and specific. Of all druggists, b

Coal Oil.

You can buy cheaper at the Lamp Store than anywhere. Lamps, Burners, Chimneys and all kinds of Lamp Trimmings you can buy at hard time prices. Four doors west of Theatre.

H. KOEHLER.

Fox & Symons

Have reduced the price of photographs. All work done by the dry-plate instantaneous process. Reduction permanent.

BUTACH—Sure pop for Bed Bugs, Crickets, Caterpillars, and all insects. Sold by Druggists and Grocers. Z. C. M. I. Drug Store, sole agents.

A NASAL INJECTOR free with each bottle of Shiloh's Catarrh Remedy. Price 50 cents. For sale at A. C. Smith & Co.'s Drug Store.

WHOLESALE BUYERS of millinery and fancy goods will do well to call or send their orders to Simon Bros.

Filling Up.

L. Goldberger's two stores and basements are filling up very fast with New and Stylish Clothing, Hats and Gent's Furnishing Goods.

The Second Shipment

MONTERRAT Lime fruit juice, 60 cents per quart at CULMER & BROS.

ONE of the most frequent remarks passed by the ladies for the past few days is: "Simon Bros.' stock, this season, is simply immense." And the ladies generally know what they are talking about.

JOHN DAYNES' PLEA.

He Agrees to Live Within the Law.

LET OFF WITH A HALF FINE.

He Pleads the Dulness of the Times and the Largeness of His Family.

Just before the recommencement of the proceedings in the Rossiter case yesterday morning, Mr. S. W. Darke, attorney, arose and addressing the court said: If the Court please: In the case of the United States against John Daynes, the defendant heretofore entered a plea of not guilty. He is in the court now and desires to withdraw that plea.

THE COURT—Do you wish to withdraw your plea of not guilty?

MR. DAYNES—Yes, sir.

The clerk then stated to Mr. Daynes the purport of the indictment, and in answer to the question—"What is your plea to this indictment?"—he replied, "Guilty."

MR. DARKE—The defendant has handed to me a written statement, and with your Honor's permission I will read it. The Court nodded assent, and Mr. Darke proceeded to read the document, as follows:

"I most respectfully submit to the Court that I am a member of the Church of Jesus Christ of Latter day Saints. From the teachings of the Church and from my readings of the Holy Bible, I was and am of the opinion that polygamy is as justifiable in the sight of God as monogamy, and consequently married a plurality of wives. I believed that the laws passed by Congress against polygamy would be declared null and void when tested in the courts of appeal. I have watched the progress of cases at the courts, and now, seeing that the Edmunds law is ruled upon in the court of last resort as being constitutional, I feel it to be my duty as a citizen to submit to the inevitable, and obey the law as interpreted by the courts of my adopted country.

I have at this time a large family dependent upon me for support, and feel it to be my duty still to protect and care for them, and as all I can earn these dull times is not more than sufficient to support them properly, I ask the Court to deal as leniently as possible with me under the circumstances.

JOHN DAYNES.

THE COURT—Mr. Daynes, I understand you to say that your intention is to obey the law of the United States against polygamy and unlawful cohabitation in the future?

MR. DAYNES—Yes, sir.

COURT—And you further promise that you will not advise others to violate that law?

DAYNES—Yes, sir.

COURT—You state that you will not?

DAYNES—I will not.

COURT—I understand from your statement that you are a man of little means?

DAYNES—Yes, sir.

COURT—What are your means of support?

DAYNES—I have a business on Main Street, but business has been very dull.

COURT—Well, how much are you worth?

DAYNES—I could not say; I could not say whether I have anything or nothing—I do not know.

COURT—What is your income annually?

DAYNES—I ask this question for the purpose of fixing the amount of fine.

DAYNES—I have to pay a very heavy rent—\$125 a month.

COURT—Well, over and above the expenses of your business?

DAYNES—I do not increase. All I know is I have just managed to get along and support my family.

COURT—How much of a family have you?

DAYNES—Ten.

COURT—In view of the statements that you have made, Mr. Daynes, and your financial condition, I am disposed to impose a moderate fine upon you—a fine of \$150, and costs, and stand committed until fine and costs are paid—no imprisonment.

MR. DARKE—If the clerk will furnish me a statement of the costs, the fine and costs will be paid.

After a pause, Mr. Darke again arose and said there was still another question which Mr. Daynes desired to ask the court. This was whether or not he was compelled to live with either of his wives?

COURT—There is no punishment imposed on a man that does not live with his lawful wife. Still, it is his duty to live with his lawful wife, unless for some justifiable cause he lives separate and apart from her. It is a man's duty to live with his lawful wife and to support her and support her children, and with nobody else. The Edmunds law imposes no punishment upon a man who does not commit the offenses defined in that law, which are polygamy and unlawful cohabitation, with more than one woman.

Having learned so much, Mr. Daynes left the court room.

The latter part of Mr. Daynes' case was the subject of some curious speculation after he had retired. An acquaintance of his intimates that the query had been put for the purpose of obtaining a ruling on what would be done in case he chose to live with his second wife instead of his first. A prominent lawyer said: "The Judge was just right. If a man chooses to select his second wife to live with, he is in no danger from any one—unless it be his first. She can cause him no trouble, except to go after him for a divorce or a division of property—he could not be touched for doing anything criminal; he could not marry his second wife while his first was living and undivorced without committing bigamy or polygamy, and he could not be punished for living with her, as (though morally it would amount to adultery) in this Territory adultery is not punishable."

Notice.

Mr. Lapham's cutter and fitter has arrived, and he is now ready to receive and execute all kinds of dressmaking. Special attention given to orders from localities outside of the city. All orders attended to promptly. Agent for McCull's Bazar Patterns; 42 and 57 W. First South Street.

The Rag Baby Again.

A fair house greeted Old Sport, Venus, the Three Little Maids from School, and other attractions at the Rag Baby last evening at the Theatre. The "something" went off to much better advantage than on the previous presentation, and considerable business was introduced. The house, and, if we are to judge from these, the audience last evening was well satisfied with the play and the players. The Baby makes its, her or his, appearance again this evening.

FIRST PREMIUMS.

On Wagons and Carriages.

From Mr. J. B. Glass, who has just returned from California, where he attended the State Fair at Sacramento, the County Fair at Stockton, and Mechanics' Fair at San Francisco, we learn the Studebaker Wagons and Carriages not only received the highest premium offered by the Mechanics' Institute, but was, in addition, awarded a silver medal for the most attractive display. The State Fair also awarded the highest premium